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By:

Sarah M. Barnett

PATENT

Customer No. 22,852

Attorney Docket No. 09367.0052-00000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of  
VAISBERG, Eugeni A. et al.

) Group Art Unit: 1631

)

) Examiner: John S. BRUSCA

Application No. 09/311,996

)

) Confirmation No.: 1991

Filed: May 14, 1999

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For: DATABASE SYSTEM INCLUDING  
COMPUTER FOR PREDICTIVE  
CELLULAR BIOINFORMATICS

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Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**TERMINAL DISCLAIMER**

Assignee, **Cytokinetics, Inc.**, duly organized under the laws of Delaware and having its principal place of business at 280 East Grand Avenue, South San Francisco, CA 94080, represents that it is the assignee of the entire right, title and interest in and to the above-identified application, Application No. 09/311,996, filed May 14, 1999, for DATABASE SYSTEM INCLUDING COMPUTER FOR PREDICTIVE CELLULAR BIOINFORMATICS, in the names of Eugeni A. Vaisberg, Cynthia L. Adams, James H. Sabry, and Anne M. Crompton, as indicated by an Assignment duly recorded in the United States Patent and Trademark Office at Reel 009971, Frame 0657, on May 14, 1999. Assignee, **Cytokinetics, Inc.**, further represents that it is the assignee of the entire right, title and interest in and to U.S. Patent Application No. **09/718,685**,

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filed November 21, 2000, which is a continuation of the instant Application No. 09/311,996, filed May 14, 1999, as indicated by assignment duly recorded in the United States Patent and Trademark Office at Reel 009971, Frame 0675 on May 14, 1999.

To obviate a double patenting rejection, assignee hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent Application No. 09/718,685. Assignee hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that the prior patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is being filed with this disclaimer.


If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this Terminal Disclaimer, please charge the

fees to our Deposit Account No. 06-0916. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to Deposit Account No. 06-0916.

The undersigned is an attorney of record.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By:   
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